

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

THURSDAY, THE 22ND NOVEMBER 2007 / 1ST AGRAHAYANA 1929

WP(C).No. 28609 of 2007(E)

PETITIONER:

K.P.RAJALAKSHMI,
MANAGER, GURUVAYOOR CO-OPERATIVE URBAN BANK LTD.
NO.F.1652, KOTTAPPADI BRANCH, THRISSUR DISTRICT.

BY ADV. SRI.C.CHANDRASEKHARAN
SRI.A.N.KUTTAN

RESPONDENTS:

1. THE GOVERNMENT OF KERALA, REPRESENTED BY
THE JOINT SECRETARY, CO-OPERATION (C) DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM.

2. THE JOINT REGISTRAR OF CO-OPERATIVE
SOCIETIES (GENERAL), THRISSUR.

3. THE GURUVAYOOR CO-OPERATIVE URBAN BANK
LTD.NO.1652, GURUVAYOOR, REPRESENTED BY
THE CHAIRMAN.

4. SRI. E.U.SREENARAYANAN,
GENERAL MANAGER, GURUVAYOOR CO-OPERATIVE URBAN
BANK LTD. NO.1652, GURUVAYOOR.

BY ADV. SRI.V.G.ARUN (FOR R3)
SRI.T.R.HARIKUMAR
SRI.D.SOMASUNDARAM (FOR R3 & R4)
GOVT. PLEADER, SMT.M.K.PUSHPALATHA (FOR R1 & R2)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 22/11/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

- EXT. P1: LETTER DATED 13.11.2003 SUBMITTED BY PETITIONER TO R3.
- EXT. P2: LETTER DATED 16.11.2003 SUBMITTED BY PETITIONER TO R3.
- EXT. P3: LETTER DATED 21.4.04 SUBMITTED BY THE PETITIONER TO R3.
- EXT. P4: ORDER DATED 23.4.04 OF THE 3RD RESPONDENT.
- EXT. P5: REPRESENTATION OF THE PETITIONER TO 3RD RESPONDENT.
- EXT. P6: REPLY DATED 19.2.2005 FROM THE VICE CHAIRMAN.
- EXT. P7: APPEAL DATED 25.2.2005 BEFORE THE 2ND RESPONDENT.
- EXT. P8: CIRCULAR DATED 6.2.2006 ISSUED BY THE 3RD RESPONDENT.
- EXT. P9: LIST OF STAF MEMBERS UNDER THE 3RD RESPONDENT.
- EXT. P10: CONTINUED APPEAL DATED 8.2.2006 BEFORE 2ND RESPONDENT.
- EXT. P11: OBJECTION BY 3RD RESPONDENT BEFORE 2ND RESPONDENT.
- EXT. P12: APPLICATION DATED 4.3.2006 FOR COPIES OF DOCUMENTS.
- EXT. P13: REPLY DATED 15.3.2006 SUBMITTED BEFORE 2ND RESPONDENT.
- EXT. P14: ORDER DATED 29.4.2006 ISSUED BY 2ND RESPONDENT.
- EXT. P15: APPEAL DATED 4.7.2006 SUBMITTED TO 1ST RESPONDENT.
- EXT. P16: ARGUMENT NOTES DATED 20.4.2007 BEFORE 1ST RESPONDENT.
- EXT. P17: ORDER DATED 4.7.2007 ISSUED BY 1ST RESPONDENT.

/TRUE COPY/

P.A. TO JUDGE

JP

THOTTATHIL B.RADHAKRISHNAN, J.

W.P(C).No.28609 OF 2007

Dated this the 22nd day of November, 2007

JUDGMENT

The petitioner, an employee of the third respondent, raises disputes in relation to the entitlement to be promoted to the post of General Manager in preference to the 4th respondent. By Ext.P7, she invoked Section 69 of the Kerala Co-operative Societies Act, 1969 and filed what she called as an appeal before the Joint Registrar on 25.2.2005. Obviously, as on that date, Act 1 of 2000 had come into force with effect from 2.1.2003 and thereby, the Joint Registrar did not have the jurisdiction to entertain any matter falling under Section 69. As per clause (d) of Sub-section 2 of Section 69 matters relating to interse seniority and promotion fall exclusively within the domain of the arbitration court. Thereby, there is exclusion of the exercise of power by any authority, including the Registrar of Co-operative Societies. See **Prakashini v. State of Kerala** [2006 (1) KLT 199] and **Raveendran v. State of Kerala** [2007 (3) ILR Kerala 241].

2. Once proceedings are before the arbitration court, the appeal would lie only before the Co-operative Tribunal and not before the Government. The Joint Registrar, exercising powers of the Registrar and the Government, exercising any appellate powers are only statutory authorities and therefore, their exercise of powers referable to section 69, after the aforesaid amendment, is not a curable situation. On the aforesaid short ground, the impugned Exts.P14 and P17 are liable to be set aside and the proceedings have now to go before the arbitration court.

3. In the result, Exts.P14 and P17 are set aside without expressing anything on merits and the second respondent is directed to take up Exts.P7 and P10 and forward them to the competent arbitration court which will register it as an arbitration case and the petitioner shall apply before that authority to bring on record all necessary parties, including the employer bank. The arbitration court, having regard to the fact that the dispute had been pending for quite some time now, will

make an endeavour to dispose of the matter as expeditiously as possible.

The writ petition is disposed of with the above direction.

Sd/-

**THOTTATHIL B.RADHAKRISHNAN,
Judge**

k kb.